

**ORDINANCE NO. 2004-3
DEALING WITH TREES AND ARBOR
REGULATIONS**

ORDINANCE

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE AND DEALING WITH TREES AND ARBOR REGULATIONS; LIMITING THE EXCEPTION TO COMPLIANCE WITH ARBOR REQUIREMENTS TO DEVELOPED SINGLE FAMILY LOTS OF FIVE (5) ACRES OR LESS WHILE RECOGNIZING THE EXEMPTION FROM REGULATION AFFORDED TO FARMS BY STATE STATUTE; CHANGING THE TITLE OF CHAPTER 60 OF THE LAND DEVELOPMENT CODE TO "ARBOR REGULATIONS"; DESIGNATING THE BOARD OF COUNTY COMMISSIONERS AS THE COUNTY'S TREE COMMITTEE AND DETAILING ITS FUNCTIONS; PROHIBITING THE USE OF REBAR FOR PROTECTIVE POSTS; CLARIFYING PROVISIONS RELATING TO THE PROTECTION OF EXISTING TREES DURING CONSTRUCTION ACTIVITIES; ESTABLISHING PRUNING STANDARDS; CLARIFYING THE PROVISIONS DEALING WITH EXEMPTIONS; CLARIFYING THE REQUIREMENTS FOR AN AGRICULTURAL EXEMPTION; ADDING AND DELETING SPECIES OF TREES THAT ARE EXEMPT; REVISING THE REQUIREMENTS FOR LOGGING PERMITS; AUTHORIZING THE BOARD OF COUNTY COMMISSIONERS TO REQUIRE REMOVAL OF TREES UNDER SPECIFIED CONDITIONS; DEFINING DBH (DIAMETER AT BREAST HEIGHT); CHANGING THE APPEAL PROVISIONS TO THE TREE COMMITTEE; REQUIRING PAYMENT OF A FEE IN ORDER TO FILE AN APPEAL; CLARIFYING THE PERMIT PROCEDURES; PROVIDING FOR EXPIRATION OF ARBOR PERMITS; PROVIDING FOR ISSUANCE OF STOP WORK ORDERS; ADDING TO THE LIST OF TREES WHICH ARE PREFERRED OR ACCEPTABLE FOR REPLACEMENT STOCK; PROVIDING FOR PLANTING SETBACKS; PROVIDING FOR FINES; CREATING THE ARBOR VIOLATION TRUST FUND AND PROVIDING FOR USE THEREOF; AMENDING SECTIONS 5.6, 60.3, 60.4, 60.5, 60.6, 60.7, 60.8, 60.22, 60.23 AND 60.24 OF THE LAND DEVELOPMENT CODE; CREATING SECTIONS 60.2, 60.5.1 AND 60.5.2 OF THE LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an economic impact statement has been prepared and is available for public review in accordance with the provisions of the Seminole

County Home Rule Charter; and

CERTIFIED COPY

MARYANNE MORSE
CLERK OF CIRCUIT COURT
SEMINOLE COUNTY, FLORIDA

BY Eva Roach
DEPUTY CLERK

WHEREAS, the private property rights analysis relating to this Ordinance has been prepared and made available for public review in accordance with the requirements of the Seminole County Comprehensive Plan (SCCP); and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. Amendment to Section 5.6, Land Development Code of Seminole County (the LDC). Section 5.6 of the LDC is amended to read as follows:

Sec. 5.6. Arbor permits. An arbor permit is required prior to the removal of any tree in the unincorporated areas of Seminole County except as may be exempted from regulation by the County pursuant to Sections 163.3162 and 823.14, Florida Statutes (2003) and except for those trees that are on developed single-family lots of five (5) acres or less. Chapter 60 of this Land Development Code contains the necessary procedures and requirements that are to be followed prior to removing any tree and also provisions for obtaining exemptions to the permitting requirements.

Section 2. Title of Chapter 60, Land Development Code of Seminole County (the LDC). The title of Chapter 60 of the LDC is changed to **ARBOR REGULATIONS.**

Section 3. Amendment and renumbering of LDC Section 60.3. LDC Section 60.3 is renumbered to 60.2 and amended to read as follows:

Sec. 60.32. Scope. The terms and provisions of this chapter shall apply to all real property lying within the unincorporated areas of the county except as to those properties exempted from regulation by the County pursuant to Sections 163.3162 and 823.14, Florida Statutes (2003) and except as to developed single family lots of five (5) acres or less. ~~as follows:~~

- ~~(a) All vacant and undeveloped property;~~
- ~~(b) All redeveloped property except developed single-family lots;~~
- ~~(c) The yard areas of all developed property, except developed single-family lots; and~~
- ~~(d) All rights-of-way, public or private.~~

Section 4. Creation of a new LDC Section 60.3 designating the Board of County Commissioners as Seminole County's Tree Committee. LDC

Section 60.3 is created to read as follows:

Sec. 60.3. The Board of County Commissioners Designated as the Seminole County Tree Committee. The Board of County Commissioners (BCC) is hereby designated as the Seminole County Tree Committee. In that capacity the BCC may:

- (1) Consider and impose appropriate tree preservation conditions of approval for land use amendments, rezoning requests, and preliminary master plans;
- (2) Approve grading, tree replacement and tree protection provisions contained in final master plans and subdivision plats;
- (3) Approve Historic Tree nominations and permits for necessary removal of Historic trees;
- (4) Increase citizen awareness of and community support for tree preservation and protection programs and objectives;
- (5) Implement a Tree Planting and Management Plan;
- (6) Provide for designating and observing an Arbor Day, including a Proclamation relating thereto;
- (7) Approve the annual re-certification as Tree County USA;
- (8) Coordinate activities and programs with civic and public interest groups devoted to tree care and preservation;
- (9) Hear appeals by aggrieved parties from decisions made by the Planning and Development Director, or his or her designee; and
- (10) Direct the enforcement of all provisions of this ordinance.

Section 5. Amendment of LDC Section 60.4. LDC Section 60.4 is amended to read as follows:

Sec. 60.4. Tree preservation during development and construction.

(a) In order to prevent destruction of or damage to trees, trees not designated for removal may be required by the terms of the permit to be protected by barrier zones. Protective barriers shall be erected prior to any land

clearing or construction of any structures, roads, utility service, or other improvements and may be required by the terms of the permit to comply with the following:

- (1) Protective posts (two (2) inches by four (4) inches or larger wooden post, two (2) inches outer diameter or larger galvanized pipe, or other post material of equivalent size and strength rebar shall not be used as a protective post) shall be implanted deep enough in the ground to be stable and with at least three (3) feet of the post visible above the ground;
 - (2) Protective Pposts shall be placed at points not closer than the drip line of the protected tree, with the posts being not further than six (6) feet apart, except that pedestrian access may be allowed within this line as specified on-site plans needed during construction but, in no case, shall access be permitted closer than five (5) feet to the trunk;
 - (3) All protective posts shall be linked together (fencing at least three (3) feet high, two (2) courses of rope not less than one-half ($\frac{1}{2}$) inch in diameter or a chain of comparable size, or other material of equivalent visibility), and each section shall be clearly visible (flagged with yellow plastic tapes or other brightly colored weatherproof marker);
 - (4) All existing trees to remain and replacement stock shall have the natural soil level maintained from the trunk to the drip line of each tree. Permanent tree wells, retaining walls or planter islands shall be provided, when found to be necessary by the ~~current planning manager~~ Planning and Development Director, or his or her designee, to maintain the existing natural soil levels. Insofar as practicable to maintain a reasonable beneficial use of the property, natural drainage to such trees shall be maintained. No grade changes shall be made within the protective barrier zones, without prior approval by the ~~current planning manager~~ Planning and Development Director, or his or her designee. ~~When roots greater than one (1) inch diameter are exposed, the roots shall be cut cleanly and painted with an emulsifiable asphalt;~~
 - (5) Protective barrier zones shall remain in place and intact until such time as landscape operations begin or construction is complete, whichever occurs first;
 - (6) Landscape preparation in the ~~protective~~ protected area shall be limited to shallow disking of the area, however, no disking shall occur within five (5) feet of the trunk or above ground roots.
- (b) No building materials, machinery or temporary soil deposits shall be placed within protective barrier zones defined in subsection (a) above;

- (c) No attachments or wires other than those of a protective or non-damaging nature shall be attached to any tree;
- (d) Trenching of any type should be avoided in the protective barrier zone. Where underground installations are conducted adjacent to the trunks of trees to be preserved, tunneling should be utilized to the maximum practicable extent. When trenching or tunneling occurs near trees to be protected, protective measures should be taken in accordance with the Tree Protection Manual for Builders and Developers published by the Florida Department of Agriculture and Consumer Services which is adopted herein by this reference thereto;
- (e) ~~The current planning division~~ Planning and Development Director, or his or her designee, shall conduct periodic inspections of the site before work begins and during clearing, construction and post-construction phases of development in order to insure compliance with this Code and the intent of this chapter. Trees that are destroyed or which are subject to major damage, as determined by the ~~current planning manager~~ Planning and Development Director, or his or her designee, shall be replaced in accordance with the requirements of this ordinance before occupancy unless removal has been permitted by the County.

Section 6. Amendment of LDC Section 60.5. LDC Section 60.5 is amended to read as follows:

Sec. 60.5. Exceptions and eExemptions. The following exemptions are self executing, but any person desiring a document attesting to such exemption may make application to the Planning and Development Director, or his or her designee. If deemed necessary the property shall be inspected to confirm that the specified activity is, in fact, exempt. If the activity is determined to be exempt, the Planning and Development Director, or his or her designee, shall place on record the basis for the same, including all statements and documents submitted by the applicant and shall describe with particularity the precise activities exempted.

(a) **Emergencies.** In the event that any tree endangers health or safety and requires immediate removal, such as, but not limited to, the cutting of emergency fire lanes by fire-fighting units, verbal authorization may be given by the ~~current planning manager~~ Planning and Development Director, or his or her designee, and the tree may be removed without obtaining a written permit as herein required. Such verbal authorization shall later be confirmed in writing;

(b) **Nurseries.** All state-approved, ~~and governmental and private~~ plant or tree nurseries and botanical gardens are exempt from the terms and provisions of this chapter only in relation to those trees which are planted

and growing for the sale or intended sale to the general public in the ordinary course of business or for some public purpose;

(c) **Pruning.** Normal pruning (less than 25 percent of the canopy) of trees, when conducted in accordance with the adopted "Tree Pruning Standards" of the National Arborist Association, are exempt from the terms and provisions of this chapter, except that the following pruning practices are not permitted and constitute a violation of this chapter requiring replacement of the trees subjected thereto in accordance with the replacement requirements of this chapter:

(1) Hat-racking: the severe trimming of trees in which most branches are cut and few branches with leaves remain;

(2) Lollipopping: the severe trimming of trees to create a non-natural shape.

Trees planted and maintained as topiaries which are not part of the required landscaping are exempt from these pruning restrictions.

~~(e-d) **Agricultural Uses.** Activity of a bona fide farm operation on land classified as agricultural land pursuant to section 193.461, Florida Statutes (2003), is exempt from this chapter 60 if such activity is regulated through implemented best management practices, interim measures, or regulations developed by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or a water management district and adopted under chapter 120 as part of a statewide or regional program; or if such activity is expressly regulated by the United States Department of Agriculture, the United States Army Corps of Engineers, or the United States Environmental Protection Agency. Anything to the contrary herein notwithstanding, tree removal for bona fide agricultural or silvicultural purposes are exempt from the terms and provisions of this chapter where the following conditions are met:~~

~~(1) The lands are assigned a zoning classification which permits agricultural or silvicultural uses and no application for rezoning is pending~~

~~(2) The lands are agriculturally classified for taxation purposes or are used in such a manner as would make the lands eligible for the agricultural taxation classification.~~

~~(3) The lands are used specifically for agronomic, vegetable, or fruit crop production or for the purposes of animal husbandry.~~

~~Exemptions are self-executing, but any person desiring a document attesting to such exemption may make application to the current planning division. The arbor inspector shall verify the applicant's sworn statement to determine compliance with subsection (c)(1) through (3). The applicant shall be notified of the decision of the current planning division. If the exception is approved, the current planning division shall place on record the basis for the same, including all statements and documents submitted by the applicant and shall~~

~~describe with particularity the precise lands excepted. Upon granting an exception, the provisions of Sections 60.3, 60.4, and 60.21 through 60.23 of this chapter shall be deemed inapplicable to the specific lands in question;~~

(e) **Exotic Trees.** All tree species listed as Category I or Category II invasive exotics in the Florida Exotic Pest Plant Council's List of Invasive Species, including the following species of trees, shall be exempt from the provisions of this chapter:

- (1) ~~Ear Tree (Enterolobium cyclocarpum)~~Acacia (Acacia species);
- (2) ~~Cajeput Tree or Punk Tree (Melaleuca leucadendra)~~ Australian Pine (Casuarina species);
- (3) ~~American Mulberry (Morus rubra)~~Brazilian Pepper (Schinus terebinthifolius);
- (4) ~~Chinaberry (Melia azedarach)~~Cajeput Tree or Punk Tree (Melaleuca quinquenervia);
- (5) ~~Australian Pine (Casuarina species)~~Camphor (Cinnamomum camphora);
- (6) ~~Brazilian Pepper (Schinus terebinthifolius)~~ Chinaberry (Melia azedarach);
- (7) ~~Silk Oak (Grevillea robusta)~~ Chinese Tallow Tree (Triadica sebifera);
- (8) ~~Jacaranda (Jacaranda acutifolia)~~ Ear Tree (Enterolobium cyclocarpum)
- (9) Eucalyptus (Eucalyptus robusta)
- (10) ~~Camphor (Cinnamomum camphora)~~ Flamegold Tree (Koelreuteria elegans);
- (11) ~~Chinese Tallow Tree (Sapium sebiferum)~~ Guava (Psidium species);
- (12) ~~Mimosa (Albizia julibrissin)~~ Jacaranda (Jacaranda acutifolia)
- (13) ~~Paper Mulberry (Broussonetia papyrifera)~~ Java Plum (Syzygium cumini);
- (14) ~~Rosewood (Dalbergia sissoo)~~ Mimosa (Albizia julibrissin);
- (15) ~~Acacia (Acacia species)~~ Paper Mulberry (Broussonetia papyrifera);

- (16) Rosewood (Dalbergia sissoo);
- (17) Silk Oak (Grevillea robusta);
- (18) Tung Oil Tree (Aleurites fordii);
- (19) Umbrella Tree (Schefflera actinophylla); and
- (20) White Lead Tree (Leucaena leucocephala).

(f) **Disasters.** In the case of emergencies such as hurricane, hailstorm, windstorm, flood, freeze, or other disasters, the requirements of this chapter may be temporarily waived by the current planning manager Planning and Development Director, or his or her designee, or the Public Safety Director of public safety. At the earliest possible meeting of the board, findings shall be presented to the board establishing that such waiver was necessary so that public or private work to restore order in the county would not be impeded. Said waiver must be for a time certain and may not be for an indefinite period;

(g) ~~In recognition of the nature of bona fide logging operations and the potential environmental detriment of such operations when improperly managed or safeguarded, said operations commencing after September 11, 1973, shall be exempt from those requirements set forth in Section 60.22 and 60.4 herein. Instead, said operations shall be permitted only under the following procedures and conditions:~~

~~(1) No person shall engage in bona fide logging operations without obtaining a permit therefor from the current planning division. Application for such permit shall be in writing and shall describe in detail the lands to be logged, the size and types of trees to be logged, the term of operations, the months during which trees will be logged, the procedures for safeguarding trees not to be logged, procedures for restoration of altered terrain, procedures for preventing erosion and pollution, and to what extent reforestation is to occur. A reforestation plan indicating all appropriate cover and plantings shall be submitted with all applications for logging permits unless waived by the current planning manager based upon his or her determination that submission of a plan would not further the public interests based upon future development conditions that will relate to the site. The current planning division upon receipt of said application, may require such additional information as deemed necessary to attain the intents and purposes of this chapter;~~

~~(2) Upon receiving an application as above set forth, the current planning division shall notify the board of county commissioners and adjacent property owners and shall review said application with the county urban forester, the county engineer and appropriate agencies;~~

~~(3) The current planning manager may, in granting any permit for a bona fide logging operation, place such reasonable conditions or restrictions upon the same as deemed necessary to:~~

- ~~(A) Protect trees not permitted to be logged;~~
- ~~(B) Buffer logging operations from waterways, parks, and residentially designated, zoned, occupied or used lands;~~
- ~~(C) Guarantee restoration of terrain to a degree necessary for the prevention of erosion and protection of flora;~~
- ~~(D) Prevent pollution;~~
- ~~(E) Insure reforestation;~~
- ~~(F) Preserve rare, valuable, or historic trees;~~
- ~~(G) Otherwise promote the intents and purposes of this chapter.~~

~~(h) Bona fide logging operations existing prior to September 11, 1973, shall be exempt from the terms of this chapter, but only to the extent that, and upon such acreage that, said logging operations were being actually conducted between July 1, 1973, and September 11, 1973. In the case of bona fide logging operations carried on pursuant to a timber contract, fully executed by one (1) party thereto, prior to September 11, 1973, said contract and its terms shall be deemed to determine the "extent" and "acreage" as used in this subsection. Where said contract specifies the size and/or types of trees to be logged, no other sizes or types of trees may be logged, damaged or destroyed without a permit as required in this section. It is the intent of this exemption to preserve, but not enlarge, contract rights existing as of September 11, 1973. Any person asserting a claim of right under this subsection shall file with the county urban forester an accurate copy of said contract. Notwithstanding anything herein to the contrary, no person, either under contract or pre-existing operation exemption, shall:~~

- ~~(1) Destroy, damage or log any trees which have been designated by the county or other appropriate agency as rare, valuable, or historic;~~
- ~~(2) Conduct logging operations within fifty (50) feet of any lands either residentially designated, zoned, used or occupied.~~
- ~~(3) Conduct logging operations within one hundred fifty (150) feet of any waterway, water body, or public park; or~~
- ~~(4) Conduct logging operations in such a manner as to pollute waterways or water bodies or to disrupt natural drainage patterns.~~

~~(i) Trees planted for harvest Dead Trees. Dead trees are exempt from the terms of this chapter.~~

Section 7. Creation of LDC Section 60.5.1. LDC Section 60.5.1 is created

to read as follows:

Section 60.5.1. Logging.

(a) Except as to activity conducted on land classified as agricultural land pursuant to section 193.461, Florida Statutes (2003), no person shall engage in logging operations without first obtaining a logging permit.

(b) Each application for a logging permit shall comply with all applicable conditions and recommendations outlined in the Florida Department of Agriculture and Consumer Services' publication titled "Silviculture Best Management Practices". Applications shall describe in detail the lands to be logged, the size and types of trees to be logged, the term of operations, the months during which trees will be logged, the procedures for safeguarding trees not to be logged, procedures for restoration of altered terrain, procedures for preventing erosion and pollution, and to what extent reforestation is to occur. A reforestation plan indicating all appropriate cover and plantings shall be submitted with all applications for logging permits unless waived by the Planning and Development Director, or his or her designee, based upon his or her determination that submission of a plan would not further the public interests based upon future development conditions that will relate to the site. The Planning and Development Director, or his or her designee, upon receipt of said application, may require such additional information as deemed necessary to meet the intent and purposes of this chapter;

(c) The Planning and Development Director, or his or her designee, may, in granting a logging permit, place such reasonable conditions or restrictions upon the same as deemed necessary to:

(1) Protect trees not permitted to be logged;

(2) Buffer logging operations from waterways, parks, and residentially designated, zoned, occupied or used lands;

(3) Guarantee restoration of terrain to a degree necessary for the prevention of erosion and protection of flora;

(4) Prevent pollution;

(5) Insure reforestation, if part of the management plan;

(6) Preserve historic trees;

(7) Otherwise promote the intents and purposes of this chapter.

(d) Notwithstanding anything herein to the contrary, no person shall:

(1) Destroy, damage or log any trees which have been designated by the county or other appropriate agency as threatened, endangered or historic; or

(2) Conduct logging operations within fifty (50) feet of any lands that are residentially designated, zoned, used or occupied.

Section 8. Creation of LDC Section 60.5.2. LDC Section 60.5.2 is created to read as follows:

Section 60.5.2 Authority to require removal of trees. The Board of County Commissioners may, after such notice as is reasonable under the circumstances, order the removal of dead, damaged or diseased trees on private or public property when such trees:

- (1) constitute an imminent threat to life or property; or
- (2) harbor pest insects which threaten other trees in the area; or
- (3) are diseased with a disease that threatens other trees in the area.

The owner of the property upon which the tree is located shall remove the tree within the time specified by the Board. Failure to comply with the Board's order shall authorize the County to enter upon the property and remove the tree and bill the owner for the expense thereof.

Section 9. Amendment of LDC Section 60.6. LDC Section 60.6 is amended to read as follows:

Sec. 60.6. Variances. The preservation of any tree on the suggested preferred tree replacement species list with a trunk diameter of twenty-four (24) inches and greater measured four and one-half (4¹/₂) feet above the ground [Diameter at Breast Height (DBH)] may be considered as the basis for the current planning manager Planning and Development Director, or his or her designee, granting a variance from the required replacement ratios or the literal application of the provisions of this chapter. Conditions of a variance so granted shall be made a part of the arbor permit.

Section 10. Amendment of LDC Section 60.7. LDC Section 60.7 is amended to read as follows:

Sec. 60.7. Appeals. Any affected person, as hereafter defined, aggrieved by any decision made in the application of this chapter may file a written appeal with the Tree Committee board of county commissioners in accordance with the provisions of this section. described below: An "affected person" is the person, firm, corporation or other legal entity making an application for a permit pursuant to this Chapter or that is the subject of any enforcement action pursuant to this Chapter.

- (a) The appeal shall be filed not later than fifteen (15) days from the date on which the disputed decision was rendered;

- (b) The fee for filing an appeal shall be paid when the appeal is filed. The amount of the fee shall be established by resolution of the Board of County Commissioners.
- (b) The hearing on the appeal shall be held within ~~thirty (30)~~ sixty (60) days of the date of filing of the appeal. ~~hearing request~~;
- (e) After a full and complete hearing on the appeal, the ~~board~~ Tree Committee shall, within fifteen (15) days of said hearing, render its decision in writing either affirming, overruling, or modifying the decision of the administrative official, agency or body.

Section 11. Amendment of LDC Section 60.8. LDC Section 60.8 is amended to read as follows:

Sec. 60.8. Effect of violations upon building permits and final approvals. No building permits shall be issued on lands where violations of this chapter are found to exist by the ~~current planning manager~~ Planning and Development Director, or his or her designee, until such time as appropriate remedial action is approved by the county. Final approval shall not be given to any construction until all violations have been corrected.

Section 12. Amendment of LDC Section 60.22. LDC Section 60.22 is amended to read as follows:

Sec. 60.22. Permit application and procedures. The following procedures shall be followed and shall govern the granting of all permits pursuant to this chapter:

- (a) *Application.* Permits for removal, relocation, or replacement of trees covered herein shall be obtained by making application in a form prescribed by the ~~current planning manager~~ Planning and Development Director, or his or her designee, to the following appropriate public bodies:
 - (1) In the case of a subdivision development, an application for an arbor permit ~~for roadways~~ shall accompany the preliminary ~~plat~~ subdivision plan of said subdivision and shall be submitted to the ~~boards or agencies charged by law, ordinance, or regulation with plat approval~~ Development Review Division for review. The arbor permit submittal information included with the preliminary subdivision plan may be limited to an aerial photograph or drawing of the areas where trees are proposed for removal or relocation. Upon submittal of final engineering plans for a subdivision, the applicant shall provide all information required in Section 60.22 (b) and (i). The Planning and Development Director, or his or her designee, ~~board of county~~

~~commissioners or other agency or body having final authority over plat approval shall have final authority over the approval or denial of applications for permits in such instances. Staff evaluation of the appropriateness of the application will be included in their recommendation to the board of county commissioners.~~ Approval of the plat final engineering plans shall constitute approval of the arbor permit, provided however that no clearing pursuant to the arbor permit shall commence until the site permit has been issued for the final engineering plans;

- (2) In the case of any development which requires site plan approval by the Planning and Zoning Commission, the Board of County Commissioners, or both; permits for removal, relocation or replacement of trees covered herein shall be obtained by making application at the time of site plan submittal to the board charged by law, ordinance or regulation with the approval of said site plan. In those cases where a site plan is required to be approved by both the Planning and Zoning Commission and the Board of County Commissioners, the decision of the Planning and Zoning Commission with respect to the tree permit application shall be recommendatory only, and the Board of County Commissioners shall make the ultimate decision as to whether to grant or deny said application for permit. Staff evaluation of the appropriateness of the application will be included in their recommendation to the Board of County Commissioners and approval of the site plan shall constitute approval of the arbor permit;
- (3) In the case of a vacant single family lot development involving tree removals, an application for an arbor permit shall accompany the building application for said lot and shall be submitted to the Building Division for approval; or
- (4) In all cases, other than those described in subsections (1), ~~and~~ (2) and (3) above, permits for removal, relocation, or replacement of trees covered herein shall be obtained by making application to the ~~current~~ Planning Division.
- (b) *Submittals.* All applications shall be accompanied by such permit fee as shall, from time to time, be established by duly adopted resolution by the Board of County Commissioners; provided, however, that governmental agencies are exempted from permit fees. Each application for a permit to remove, relocate or replace trees covered herein shall be accompanied by a written statement indicating the reasons for removal, relocation or replacement of trees and two (2) copies of a legible site plan drawn to the largest practicable scale, but need not be certified by a registered surveyor, indicating the following:

- (1) Location of all existing or proposed structures, improvements and site uses, properly dimensioned in reference to property lines, setback and yard requirements in spatial relationship;
 - (2) Proposed changes, if any, in site elevations, grades and major contours;
 - (3) Location of existing or proposed utility services and easements;
 - (4) Location of all trees on-site which ~~are a~~ have a minimum DBH of three (3) inches ~~in diameter measured four and one-half (4¹/₂) feet above the ground~~ designating the trees to be retained, removed, relocated, or replaced. Groups of trees in close proximity may be designated as "clumps" of trees with the estimated number and type of trees noted when they are to be removed, relocated or replaced. Trees with a diameter DBH of twenty-four (24) inches and greater shall be identified by type species, height, and diameter measurement and canopy spread. Trees to be removed, relocated or replaced shall be labeled by (common or botanical name) on the site plan;
 - (5) Tree information required above shall be summarized in legend form on the plan and shall include the reason for the proposed removal, relocation or replacement; and
 - (6) Applications involving developed properties may be based on drawings showing only that portion of the site directly involved and adjacent structures and landscaping on natural growth incidental thereto.
- (c) *Tree preservation.* For trees that are to be saved or retained, each application must contain a statement of how these trees or tree areas are to be protected during construction and landscape operations;
- (d) *Application review.* Upon receipt of a proper application, the appropriate body or agency shall review said application, ~~which~~ The review may include, but need not be limited to, a field check of the site and referral of the application for recommendations to other appropriate administrative departments or agencies. The designated public agency or body shall take all steps to assure that a decision is made on the application within thirty (30) days; provided, however, that, in the case of ~~plat approval or site plan approval~~, a decision on an application shall be made within the time required for ~~final plat or site plan approval~~; and provided, further, however, that, if more time is required to process any application, a request in writing stating a specified extension of time shall be made to the applicant for his or her approval. If the request for extended process time is rejected by the applicant, a an approval, conditional approval or denial of the application ~~permit~~ shall be issued without undue delay;

provided, further, however, that expiration of the review time does not entitle the applicant to remove the trees which are the subject of the application;

(e) *Issuance of permits for removal.* No permit shall be issued for tree removal unless one (1) of the following conditions exists; ~~provided, however, that a permit shall not be required as to properties which are designated as common area or open space in a planned unit development:~~

(1) The tree is located in a buildable area, yard area or right-of-way where a structure or improvement is to be placed and for which a permit application has been filed, and/or it unreasonably restricts the permitted use of the property; ~~or~~

(2) The tree is diseased or injured, or in danger of falling on pedestrians, vehicular traffic or in such proximity to existing or proposed structures so as to endanger such structures; ~~;~~

(3) The tree interferes with utility services or creates unsafe vision clearance;

(4) The tree is diseased or infested with a condition that will require removal of the tree to prevent the transmission of the disease or infestation.

(f) *Relocation or replacement.* As a condition of the granting of a permit, the applicant may be required by the ~~current planning manager~~ Planning and Development Director, or his or her designee, to relocate or replace (with authorized replacement trees) the trees being removed ~~or required to replace the trees being removed with authorized replacement trees.~~ Replacement trees, when required, will be provided based on the ~~trunk diameter~~ DBH of the trees being removed and the caliper (trunk diameter measured one foot above the ground) of the replacement stock trees. ~~The trunk diameter shall be measured four and one-half (4¹/₂) feet above ground level and~~ A site plan depicting the proposed location of the replacement trees is required as part of the permit application. The replacement standards below will apply, provided, however, that under no circumstances shall the number of required replacement trees exceed 250 trees per acre.

TREE REPLACEMENT STANDARDS

<i><u>Diameter DBH of Tree Removed</u></i>	<i><u>Number of Replacement Trees Required for Each Tree Removed</u></i>	<i><u>Minimum Caliper for Standard Replacement</u></i>	<i><u>Replacement Trees Required for Each Tree Removed due to an Arbor Violation</u></i>

3 inches to less than- 12 inches	Two (2) replaced for one (1) removed	Two (2) inches	Four (4) replaced for one (1) removed
12 inches to less than 24 inches	Three (3) Four (4) replaced for one (1) removed	Two (2) inches	Six (6) replaced for one removed
24 inches or above-larger	Four (4) Five (5) replaced for one (1) removed	Two (2) inches	Eight (8) replaced for one (1) removed

~~The current planning manager, In determining the required relocation or replacement of trees, the following shall be considered; the intended use of the property and evaluate the following:~~

- (1) Existing tree coverage;
- (2) Number of trees to be removed and retained. Special consideration will be given to the retention of small, slow-growing Florida native species and trees with a ~~trunk diameter~~ DBH of twenty-four (24) inches or larger;
- (3) Area to be covered with structures, parking, and driveways;
- (4) Topography and drainage of the site and its environs;
- (5) Character and ecology of the site; and
- (6) Characteristics and amount of trees, shrubs and grass proposed for planting on the site by the applicant. Special credit ~~will~~ may be given in consideration of planting of trees that exceed the minimum diameter requirements or are selected from the "Preferred Tree Species" list.
- (g) *Alternatives to standard tree replacement.* If the total number of trees required cannot be reasonably accommodated on a site, the total caliper inches shall be met by the placement of fewer, but larger, trees on the site, as approved by the ~~current P~~planning and Development Director, or his or her designee ~~manager~~;
- (h) When ten (10) or more trees are required to be planted on a site to meet the requirements of this chapter, a mix of trees shall be provided at least one (1) of which shall be native to the Central Florida Region and no single tree species may constitute more than fifty (50) percent of the

trees planted. The minimum number of species to be planted is set forth below.

REQUIRED MIX OF TREE SPECIES

<i>Required Number of Trees Planted</i>	<i>Minimum Number of Species</i>
10 - 20	2
21 - 30	3
31 - 40	4
41+	5

- (i) *Permit form.* Permits shall be issued in such form as may be prescribed by the ~~current planning manager~~ Planning and Development Director, or his or her designee, and may set forth in detail the conditions upon which the permit is granted. One (1) permit may cover several trees or groups of trees as long as the same can be clearly identified thereon; provided, however, that, no permit may be issued for more than one (1) parcel or area of land unless said parcels or areas of land are contiguous to one another; and
- (j) *Permit expiration.* Any permit issued under this ordinance shall automatically expire twelve (12) months after issuance, or, when issued as part of a building permit, at the time of expiration of the building permit, whichever is later.
- (k) *Stop Work Order.* Whenever any work is being done contrary to the provisions of this ordinance, the Planning and Development Director, or his or her designee, may order the work stopped by serving written notice on the holder of the permit or the person(s) at the work site.

Section 13. Amendment of LDC Section 60.23. LDC Section 60.23 is amended to read as follows:

Sec. 60.23. Replacement stock.

- (a) In all cases wherein this chapter requires replacement of any tree removed, said replacement shall be made with "replacement stock." Replacement stock is hereby defined as any immature tree, other than palm trees, with a minimum diameter of two (2) inches at one (1) foot above ground level (i.e. 2" caliper) and having a height of at least eight (8) feet. Replacement stock shall be maintained by the permittee until replacement stock meets the definition of a tree as defined in Chapter 2.

Any dead or substantially damaged tree under maintenance shall be replaced with same kind within thirty (30) days of notification. Trees listed in Section 60.5(e) of this Chapter as Category I or Category II invasive exotics identified in the Florida Exotic Pest Plant Council's List of Invasive Species shall not qualify as replacement stock.

- (b) The following suggested tree replacement species were selected for their hardiness, disease and or pest resistance, ~~availability and size variance~~. It is not the intent to limit acceptable species (except as herein set forth), but rather to provide adequate guidelines in the selection of replacements. All replacement trees shall be Florida Nursery grade Number 1. Tree species must be approved in advance by the ~~Arbor Inspector of the current planning division~~ Planning and Development Director, or his or her designee, except for the following trees which may be used as replacement stock without prior approval:

Preferred Tree Species List

- (1) ~~American Holly (Ilex opaca)~~ American Elm (Ulmus americana);
- (2) ~~Cypress (Taxodium species)~~ American Holly (Ilex opaca);
- (3) ~~Dahoon Holly (Ilex cassine)~~ American Hornbeam (Carpinus caroliniana);
- (4) ~~Drake Elm (Ulmus parrifolia "Drake")~~ Box Elder (Acer negundo);
- (5) ~~Laurel Oak (Quercus laurifolia)~~ Bald Cypress (Taxodium distichum);
- (6) ~~Live Oak (Quercus virginiana)~~ Carolina Basswood (Tilia americana var caroliniana);
- (7) ~~Loblolly Bay (Gordonia lasianthus)~~ Dahoon Holly (Ilex cassine);
- (8) ~~Red Maple (Acer rubrum)~~ Devilwood (Osmanthus americanus);
- (9) ~~Southern Magnolia (Magnolia grandiflora)~~ Laurel Oak (Quercus laurifolia);
- (10) ~~Swamp Tupelo (Nyssa sylvatica biflora)~~ Live Oak (Quercus virginiana);
- (11) ~~Sweet Bay (Magnolia virginiana)~~ Loblolly Bay (Gordonia lasianthus);
- (12) ~~Sweet Gum (Liquidambar styraciflua)~~ Loblolly Pine (Pinus taeda);

- (13) Sycamore (~~Platanus occidentalis~~) Longleaf Pine (Pinus palustris);
- (14) Persimmon (Diospyros virginiana);
- (15) Pignut Hickory (carya glabra);
- (16) Pond Cypress (Taxodium ascendens);
- (17) Pond Pine (Pinus serotina);
- (18) Red Bay (Persea borbonia);
- (19) Red Maple (Acer rubrum);
- (20) Sand Live Oak (Quercus geminata);
- (21) Scrub Holly (Ilex opaca);
- (22) Silk Bay (Persea humilis);
- (23) Slash Pine (Pinus eliottii);
- (24) Southern Magnolia (Magnolia grandiflora);
- (25) Southern Red Cedar (Juniperus silicicola);
- (26) Swamp Tupelo (Nyssa sylvatica biflora);
- (27) Sweetbay (Magnolia virginiana);
- (28) Sweetgum (Liquidambar styraciflua);
- (29) Sycamore (Platanus occidentalis);
- (30) Tulip Tree (Liriodendron tulipifera);
- (31) Turkey Oak (Quercus laevis); and
- (32) Winged Elm (Ulmus alata).

Acceptable Tree Species List

- (1) Carolina Ash (Fraxinus caroliniana);
- (2) Carolina Laurel Cherry (Prunus caroliniana);
- (3) Eastern Cottonwood (Populus deltoides);

- (4) Hackberry (Celtis laevigata);
- (5) River Birch (Betula nigra);
- (6) Shumard Oak (Quercus shumardii);
- (7) Swamp Bay (Persea palustris);
- (8) Myrtle Oak (Quercus myrtifolia); and
- (9) Sand Pine (Pinus clausa).

Other native and non-native species may be acceptable for use but will require County approval prior to planting.

- (c) ~~Pruning standards.~~ Trees required by this Code shall only be pruned to promote healthy, uniform and natural growth of the vegetation except where necessary to promote the health, safety and welfare of the public. Such pruning shall be accomplished in accordance with the adopted "Tree Pruning Standards" of the National Arborist Association (1989) which is adopted and incorporated by this reference thereto. *Planting setbacks.* All replacement and new trees shall be planted at least four (4) feet away from any building, sidewalk, road or structure.

Section 14. Amendment of LDC Section 60.24. LDC Section 60.24 is

amended to read as follows:

Sec. 60.24. Authority to impose fines and County arbor violation trust fund.

- (a) The Code Enforcement Board, after notice and hearing, is authorized to impose fines, in amounts not to exceed those shown in subsection (b), for removal of trees without an arbor permit or removal of trees in excess of those authorized by an arbor permit.

- (b) Fines shall be calculated on the basis of the following table:

<u>DBH of tree removed</u>	<u>Amount of fine</u>
<u>3 inches to less than 12 inches</u>	<u>\$100.00 per tree</u>
<u>12 inches to less than 24 inches</u>	<u>\$300.00 per tree</u>
<u>24 inches or larger</u>	<u>\$500.00 per tree</u>

If the DBH of the tree(s) removed cannot reasonably be determined then there shall be a rebuttable presumption that the DBH of each tree removed was in excess of twelve (12) inches but less than twenty four (24) inches. If the number of trees removed cannot reasonably be determined then there shall be a rebuttable presumption that the density of the trees removed was one hundred (100) trees per acre and the number of trees removed shall be calculated using that density applied to the areas cleared. The maximum fine per acre shall not exceed \$10,000.00.

(c) All fines shall be in addition to and not in lieu of the requirement to plant replacement trees as specified in Section 60.22(f) of this chapter.

(d) An arbor violation trust fund is hereby established by the county for deposit of fines paid in order to provide an opportunity for cash payments to be made to the county. All monies deposited hereunder shall be deposited in the arbor violation trust fund, which shall be a separate account established and maintained apart from the general revenue fund of the County. All money in this fund shall be used for the planting of trees in the County and the administrative costs incurred in enforcing this ordinance as authorized by the Board of County Commissioners. The arbor violation trust fund shall be self-perpetuating from year to year unless specifically terminated by the Board of County Commissioners. The arbor violation fund shall be available for arbor code enforcement actions. Monies from the fund will be used to provide landscape stock in public areas throughout Seminole County. Payment of money into the fund shall be considered only as a final remedy. The method for calculating contributions is as follows:

For every two (2) inches, the contribution shall equal the wholesale value of a planted two-inch caliper laurel oak tree multiplied by two (2). The wholesale value shall be calculated by taking the average of the median current wholesale price published by county selected Central Florida nurseries, for a container grown, balled and burlaped two-inch caliper laurel oak. The wholesale value will be recalculated and adjusted annually on October 1st by the county's urban forester.

Section 15. Severability. If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or void, such section, paragraph, sentence, clause, phrase or word may be severed from this ordinance and the balance of this Ordinance shall not be affected thereby.

Section 16. Codification. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Seminole County Land Development Code and that the word "Ordinance" may be changed to "section," "article," or other appropriate word and the sections of this ordinance may be renumbered or relettered to accomplish such intention; provided, however, that sections 15, 16, and 17 shall not be codified.

Section 17. Effective Date. This Ordinance shall become effective upon filing a copy of this ordinance with the Department of State by the Clerk of the Board of County Commissioners.

ENACTED this 13th day of January, 2004.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____

DARYL G. MCLAIN, CHAIRMAN

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